

ZB# 74-15

Edward & Pauline Starr

18-1-2

Garr, Edward & Paulene 74-15

Interpretation



Excavator, pile of earth, line of trees, bright sky

[Handwritten signature]

Application No. Permit No.

Building Department

(CITY, TOWN OR VILLAGE) OF NEW WINDSOR 555 UNION AV
(Address and Telephone Number)

County of: ORANGE

Location: CEDAR AVE

Map No.: Section: 18 Block: 1 Lot: 2

Certificate of Occupancy

No. 119-1973

Date DECEMBER 11 1973

THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated 19....., pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is

TRUCK STORAGE

This certificate is issued to EDWARD & PAULINE STARR

(owner, lessee or tenant)

of the aforesaid building.

Howard R. Coe
Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

Forge Hill Road
New Windsor, N. Y.
July 4, 1974

Devitt and Devitt
248 Broadway
Newburgh, N. Y. 12550

RE: INTERPRETATION: Edward & Paulene Starr

Dear Mr. Devitt:

Kindly be advised of the following interpretation regarding the Starr property on Cedar Avenue:

With respect to the application of Mrs. Paulene Starr for an interpretation of the Zoning Law and the right to continue to use her property, which is zoned both GI and EB, which business is for the storage of trucks, operation of sand and gravel bank and the storage and manufacture of concrete products, that it is the finding of this Board on the basis of the testimony presented to it by the applicant and in the absence of any controverting evidence presented by any third parties that the property in question was, in fact, used for those purposes prior to the adoption of the ordinance; that it has been continued to be used in such fashion uninterruptedly until the present date and, therefore, is now a pre-existing non-conforming use permitted under the Zoning Ordinance.

Yours truly,

Fred Wygant, Chairman

/pd

cc: Mr. and Mrs. Edward Starr
Howard Collett, Bldg. Inspector

No. ~~233~~

27-1972

MAR 21 1972

BUILDING PERMIT

FEE: 10.00

A permit is hereby given by the Zoning Officer of the Town of New Windsor, Orange County, N. Y., for building as described:

Owner's Name STARR PIPE CO

Address CEDAR AVE

Architect's Name _____

Address _____

Builder's Name _____

Address _____

Location of Building STARR PIPE

Material _____ Number of Stories _____ Number of Families _____

Dimensions of Building _____ Dimensions of Lot _____

Use of Building FENCE ENCLOSURE

Number of Toilets _____ Number of Baths _____

Heating Plant _____

I am familiar with the Zoning Ordinance of the Town of New Windsor.

Remarks: ERECT 800 FEET OF CHAIN LINK FENCE

7 FEET HIGH FOR ENCLOSURE OF SUPPLIES & EQUIPMENT
OF VEHICULAR CONSTRUCTION CO DURING CONSTRUCTION OF SEWER

Signature of Applicant Robert E. Starr DISTRICT

Approximate Cost \$ 2000.00

Action of —

Planning Board _____

Highway _____

Water _____

Sewer _____

Zoning Board of Appeals _____

Harold R. Gault
Zoning Officer

A permit under which no work is commenced within 6 months after issuance shall expire by limitation and a new permit shall be secured before work is started.



1763

OFFICE OF THE SUPERVISOR

TOWN OF NEW WINDSOR

Supervisor
Theodore F. Marsden
555 Union Avenue
New Windsor, New York 12550
(914) 565-8800

March 20, 1972

Mr. John F. Homin
91 Meriline Avenue, M. D. #23
New Windsor, New York 12550

Dear Mr. Homin:

In reply to your letter of March 13, 1972 addressed to the Town Board, please be advised of the following:

The name of the contractor on this job is Ufheil Construction Company, having signed a contract to complete Contract 2B of S.D. #9.

No building permit is necessary or required for temporary field offices on a public works contract inasmuch as this would be an unnecessary charge against the district.

The duration of stay at this location, under the contract, is two years. However, it is the desire of the contractor as he had indicated in his discussions with the engineer, that he hopes to complete this job within eight months.

The hours of daily operation for this project will be from 8:00 A.M. to 4:30 P.M.

The contractor has the right to enter on any Town roads and it is my understanding that he has an agreement with the property owner for utilization of private property at the end of the dead end street.

The contractor will be responsible for repair of any and all streets damaged as a result of his equipment or streets dug up in the course of completing the contract.

The contractor will be responsible for maintaining dust pollution control and keeping said control to the minimum where ever he is operating within the Town.

If any problems result in drainage as a result of the installation of this line, the contractor will be responsible for any change in contour of the land. The contract specifically requires that the land be restored to the condition, prior to the installation of the sewer line.

Mr. John F. Homin

-2-

March 20, 1972

The minimum distance for any temporary toilet facilities would have to conform with the setbacks for temporary structures. I believe this would be 20 to 25' from a property line.

Heavy construction equipment will, by necessity, work up to the property lines where no easement is obtained, and where easements are obtained, they will be able to work in the right-of-way of the easements.

The debris from buildings, fences and other material installed by the contractor will have to be removed by the contractor when the project is completed. The Town withholds sufficient money from the contract payment to insure the job is properly completed and cleaned up.

I wish to thank you for bringing this matter to my attention.

Respectfully,


THEODORE F. MARSDEN
Supervisor

TFM/pd

cc: Kartiganer
Town Board

STATE OF NEW YORK
COURT OF SPECIAL SESSIONS
COUNTY OF ORANGE

SS: 3

TOWN OF NEW WINDSOR

HOWARD COLLETT, ZONING OFFICER OF THE TOWN, being duly sworn,
deposes and gives information as follows: OF NEW WINDSOR

That EDWARD & PAULINE STARR, on the 26th day of
APRIL, 1974, in the TOWN of NEW WINDSOR,
County of ORANGE, New York, at about 4 o'clock am/p.m.,
did commit the ^{VIOLATION} ~~crime~~ of STORAGE OF TRUCKS & EQUIPMENT in violation of § 48-7
ZONING ORDINANCE of the TOWN OF NEW WINDSOR
of the State of New York,

in that he did, wrongfully, unlawfully, and knowingly, at the aforesaid time and place

PERMIT THE STORAGE OF TRUCKS & EQUIPMENT IN
THE PORTION OF THEIR LOT WHICH IS ZONED "RB"
ONE FAMILY RESIDENTIAL DISTRICT.

AN ORDER TO REMEDY THIS VIOLATION WAS
ISSUED ON APRIL 16th 1974 AND TO BE COMPLIED
WITH BEFORE APRIL 26th 1974. THE ORDER HAS
NOT BEEN COMPLIED WITH.

Building Department
(CITY, TOWN OR VILLAGE) OF NEW WINDSOR 555 UNION AVE
(Address and Telephone Number)

County of: ORANGE

Order to Remedy Violation

Location... CEDAR AVENUE

Map No.: Section: 18 Block: 1 Lot: Y

Date... APRIL 16 ... 1974

TO EDWARD & PAULINE STARR
(owner or authorized agent of owner)

33 MELROSE AVE NEW WINDSOR N.Y.
(address of owner or authorized agent of owner)

PLEASE TAKE NOTICE there exists a violation of:

The State Building Construction Code
Zoning Ordinances
Other Applicable Laws, Ordinances or Regulations

.....
✓
.....

at premises hereinafter described in that STORAGE OF TRUCKS & EQUIPMENT
(state character of violation)
IS NOT PERMITTED IN AN (R B) ONE FAMILY RESIDENTIAL
DISTRICT.

in violation of... 48-7 ZONING ORDINANCE
(state section or paragraph of applicable law, ordinance or regulation)

YOU ARE THEREFORE DIRECTED AND ORDERED to comply with the law and to
remedy the conditions above mentioned forthwith on or before the 26th day of
APRIL 1974

Failure to remedy the conditions aforesaid and to comply with the applicable provisions of law may constitute an offense punishable by fine or imprisonment or both.

Howard R. Calvert
Superintendent of Buildings

APPLICATION TO BOARD OF APPEALS

Appeal #

June 4, 1974

TO THE ZONING BOARD OF APPEALS, TOWN OF NEW WINDSOR:

WE, EDWARD STARR AND PAULINE STARR, hereby appeal to the Zoning Board of Appeals of the Town of New Windsor from a determination of the Superintendent of Buildings of the Town of New Windsor dated April 26, 1974, copy of which is annexed hereto and made a part thereof, wherein a determination was made by said Superintendent of Buildings that our property which is partially in a GI zone and partially in a RB zone can not be used for the storage of trucks although we have a pre-existing non-conforming use as the property was originally completely in a GI zone.

1. Location of property - Merline Avenue, New Windsor
2. Type of appeal - and interpretation of the determination of the Superintendent of Buildings of said Town of New Windsor.
3. No previous application has been made.
4. The grounds for this appeal is the fact that said property is a non-conforming use.

Edward Starr
Edward Starr

Pauline Starr
Pauline Starr

Sworn to before me this

5th day of June 1974

Claire M. Benson

CLAIRE M. BENSON, York
NOTARY PUBLIC, State of New York
Orange County
Commission Expires March 30, 1975



1763

OFFICE OF THE SUPERVISOR

TOWN OF NEW WINDSOR

Supervisor
Theodore F Marsden
555 Union Avenue
New Windsor, New York 12550
(914) 565-8800

December 6, 1973

Mrs. Patricia Starr
New Windsor, New York

RE: Starr Property

Dear Pat:

At your request I discussed with Town Attorney John Stanton the possibility of your leasing your property which is zoned G.I. for the parking of trucks belonging to Ruth Cherry.

It is the finding of the Town Attorney that there is nothing in the Zoning Ordinance or the Town Code that would prohibit or prevent you from leasing your property for the parking of these trucks. A site plan is not required provided that no building or buildings are erected or made necessary by this use.

The above concurs with my findings in which I had originally stated that I could not find anything in the Code that would prevent you from leasing this property for this use.

Respectfully,

Leroy A. Langer, pt
LEROY A. LANGER
Councilman
Town of New Windsor

LAL;pt

LAW OFFICES

Daniel J. Bloom

Peter E. Bloom

July 1, 1974

ROUTE 94 POST OFFICE BOX 477

(AT THE PROFESSIONAL CIRCLE)

VAILS GATE, NEW YORK 12584

TELEPHONE (914) 561-6920

Mr. Fred Weygant, Jr.
Chairman - Zoning Board of Appeals
555 Union Avenue
New Windsor, New York 12550

RE: Application of Mrs. Pauline Starr for Interpretation
of Non-Conforming Use

Dear Mr. Weygant:

The above-captioned application presented at the June 17, 1974, meeting of the Zoning Board of Appeals of the Town of New Windsor was referred to me by the Board for review and opinion.

The only question before this Board, it is respectfully suggested, is "whether or not the continued use of the premises in question as a truck storage-sand and gravel type operation after the adoption of the Ordinance which changed a portion of the property to an RB Zone may be justified as a continuation of an existing non-conforming use."

"Non-conforming existing use" is defined in the Zoning Law of the Town of New Windsor as follows:

"a building or use that does not conform
to the regulation prescribed for the
district in which it is situate."

A review of the relevant New York State case law as well as the Zoning Ordinance itself suggests that the following criterion be considered by this Board in making a determination as to whether or not the property in question is in fact an existing non-conforming use and thereby permitted under the Zoning Law:

1. Was the use in question in existence prior to the adoption of the New Windsor Zoning Law or the Town Board on November 11, 1965?

LAW OFFICES

Daniel J. Bloom
Peter E. Bloom

Mr. Fred Weygant, Jr.

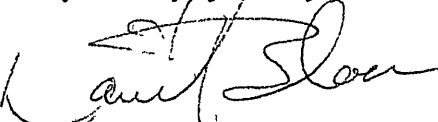
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July 1, 1974

2. Was the use in question in existence prior to the adoption of the resolution of re-zoning changing the subject premises or a portion thereof from G1 to RB in or about 1970 through 1972?
3. Was the property in question utilized for business purposes by the owners prior to the adoption of the ordinance for truck storage, sand and gravel and pipe storage purposes?
4. Did such use constitute a substantial use of the property in question?
5. Did the usage of the premises in question from 1963 to date for various commercial purposes continue on an uninterrupted basis and constitute a substantial use of the property in question?

If this Board determines that the answer to each of the above questions is "yes", then I believe the applicant's use of the premises in question comes squarely within the definition of a "non-conforming existing use" as it is referred to in the Courts of the State of New York and should therefore be permitted to continue.

Very truly yours,



DANIEL J. BLOOM

DJB/cal

ZONING BOARD OF APPEALS
Town of New Windsor, New York 12550

Forge Hill Road
New Windsor, N. Y.
July 4, 1974

Devitt and Devitt
248 Broadway
Newburgh, N. Y. 12550

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Yours truly,



Fred Wygant, Chairman

//pd

cc: Mr. and Mrs. Edward Starr
Howard Collett, Bldg. Inspector